

**UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS**

UNITED STATES OF AMERICA, *et al.*,
ex rel. JULIANNE NUNNELLY and
MATTHEW SHANKS,

Plaintiffs,

v.

REGENERON PHARMACEUTICALS, INC.,

Defendant.

No. 20-cv-11401-PBS

**UNITED STATES' ASSENTED-TO MOTION FOR LEAVE TO FILE
A RESPONSE TO REGENERON'S NOTICE OF SUPPLEMENTAL AUTHORITY**

Pursuant to Local Rule 7.1(b)(3), the United States respectfully moves for leave to submit a short response to Regeneron's Notice of Supplemental Authority (ECF No. 169). In support of its Motion, the government states as follows.

On February 14, 2025, Regeneron filed a Notice of Supplemental Authority regarding a recent First Circuit opinion: *Humana Inc. v. Biogen Inc.*, No. 24-1-12, 2025 WL 227530 (1st Cir. Jan. 17, 2025). Despite Regeneron's claim to the contrary, the opinion has a limited holding specific to deficient pleadings in a civil RICO case. It sheds no light on the Court's disposition of this case.

In addition, on February 18, 2025, the First Circuit issued an opinion in a separate matter involving Regeneron, which reaffirms its position that claims can be false under the False Claims Act due to implied false certifications or misrepresentations and due to the conduct of a defendant that does not directly submit claims itself to federal healthcare programs (here, Regeneron). *United States v. Regeneron Pharmaceuticals, Inc.*, No. 23-2086, slip op. at 20-23

(1st Cir. Feb. 18, 2025).

Accordingly, the government seeks leave to file a short response to address Regeneron's interpretation of the First Circuit's holding in *Humana* and to highlight relevant portions of the First Circuit's recent holding in *Regeneron*.

Dated: February 21, 2025

Respectfully submitted,

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LOCAL RULE 7.1 CERTIFICATION

The undersigned counsel certifies, pursuant to Local Rule 7.1(a)(2), that counsel for the United States has conferred with counsel for Regeneron and Regeneron's counsel does not oppose this motion.

Dated: February 21, 2025

By: /s/ Lindsey Ross
Lindsey Ross
Assistant United States Attorney